IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

THURSDAY, THE 7TH DECEMBER 2006 / 16TH AGRAHAYANA 1928

WP(C).No. 32558 of 2006(A)

OS.199/2006 of MUNSIFF COURT, PERUMBAVOOR
.....

PETITIONER:

GEORGE CHERIAN,
S/O.PYLEE, THOMBRA HOUSE,
ALLAPRA P.O., VENGOLA VILLAGE,
PERUMBAVOOR, ERNAKULAM DISTRICT.

BY ADV. SRI.R.ANILKUMAR
SRI.P.BANI

RESPONDENTS:

JOY CHERIAN,
THOMBRA HOUSE, ALLAPRA P.O.,
VENGOLA VILLAGE, PERUMBAVOOR,
ERNAKULAM DISTRICT.

BY //

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 07/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.SASIDHARAN NAMBIAR,J.

W.P.(C) .NO.32558 OF 2006

Dated 7th December 2006

JUDGMENT

Petitioner is plaintiff and respondent is defendant. A commission was appointed at the instance of petitioner. In the commission application an objection was filed by respondent. It is thereafter commission was appointed. Respondent subsequently filed I.A.2163/06, to direct the commissioner to report the matters stated by the respondent in his objection to the commission application. Under Ext.P6 order learned Munsiff allowed that application. It is challenged in this petition filed under Article 227 of Constitution of India. Arguments of learned counsel appearing for petitioner was that it is after considering the said objections, learned Munsiff appointed the commissioner and therefore learned Munsiff should not have allowed the request of respondent to note the points stated in the objection.

2. Question considered by the court while appointing the commissioner is whether appointment of

a commissioner is necessary for the reasons stated in the petition. After appointment of commissioner, when respondent sought a direction to the commissioner to note the points mentioned by respondent in his objection, learned Munsiff directed the commissioner to note those points also. The order cannot be said to be illegal or irregular. Fact that commissioner will be recording the facts after verification as sought by respondent in his objection to the commission report, does not mean that the report or the facts will be accepted by the court below. Commissioner will only be furnishing the data. It is for the court to decide whether it is reliable and relevant. In such circumstances, I find no reason to interfere Ext.P6 order in exercise of the supervisory jurisdiction of this court under Article 227 of Constitution of India.

Writ petition is dismissed.

M.SASIDHARAN NAMBIAR,
JUDGE.

uj.